

REMARKS

The present application has been reviewed in light of the Office Action dated December 26, 2007. Claims 1-24 are presented for examination. Independent Claims 1, 8, 13, and 18 have been amended to more clearly define aspects of the present invention. Dependent Claims 2-7, 9-23, 14-17, and 19-24 have been amended purely as to matters of form. Favorable consideration is requested.

Initially, Applicants note that the Examiner did not indicate that the references cited in the Information Disclosure Statement (“IDS”) of August 17, 2006, have been considered. Applicants respectfully request the Examiner to consider the references cited in the IDS and to indicate consideration of the references by initialing and signing the PTO-1449 form attached to the IDS.

The Office Action states that dependent Claims 2-7, 9-23, 14-17, and 19-24 are objected to on the grounds that each of these claims should begin with the word “The” and not the word “A” and thus the dependent claims are alleged to be “informal.” Applicants respectfully disagree with this allegation. In fact, the MPEP at § 608.01(n)(I)(A) in a section entitled “**Acceptable** Multiple Dependent Claim Wording” (emphasis added) gives examples of proper dependent claims all beginning with the word “A.” It is respectfully submitted that, although these examples are for multiple-dependent claims, nowhere in the MPEP is there any indication that single-dependent claims are required to begin with the word “The” and thus are to be treated differently from multiple-dependent claims.

Nevertheless, in an effort to advance the examination of the present application beyond issues of minor wording choices that do not affect the patentability or scope of the claims, each of the dependent claims has been amended to begin with the word “The” to

accommodate the Examiner's preferences. Accordingly, withdrawal of the objections to Claims 2-7, 9-23, 14-17, and 19-24 is respectfully requested.

The Office Action states that Claims 1-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,173,267 (Cairns). Applicants respectfully traverse the rejections and submit that independent Claims 1, 8, 13, and 18, together with the claims dependent therefrom, are patentably distinct from Cairns for at least the following reasons.

Claim 1 is directed to a method of administering a promotional contest. According to the method, a subset of a plurality of items produced by a manufacturer is established, wherein each item of the subset includes a winning code unique to the subset; a consumer is provided with an item from the plurality of items, wherein the item includes a contest code; the consumer is enabled to input the contest code into a prize redemption system; the contest code is electronically validated to determine whether the contest code is an active code in the promotional contest; and, if the contest code is found to be valid, then a determination is made as to whether the valid contest code inputted by the consumer matches the winning code thus entitling the consumer to receive a prize associated with the winning code.

A notable feature of Claim 1 is that the contest code inputted by the consumer is electronically validated before a determination is made as to whether the contest code is a winning code. That is, after the contest code is electronically validated and determined to be an active code in the promotional contest, then it is determined whether the contest code is a winning code. This feature is discussed at, for example, paragraphs [0031] through [0035] and [0039] through [0040] of U.S. Patent Application Publication No. 2002/0016737 corresponding to the present application. One of the advantages of this feature is that it prevents fraudulently inputted contest codes (e.g., contest codes based on "war dialing" – see paragraph [0032]; re-use

of contest codes known to be winning codes) from being declared to be winners. Another advantage of this feature is that it enables valid contest codes inputted by consumers to be stored until a later date at which time a winner can be selected from the inputted valid contest codes, thus eliminating the possibility of selecting a winning code that is not one of the valid contest codes inputted by the consumers. Yet another advantage of this feature is that it enables codes that are determined to be active codes to remain in the promotional contest and thus be eligible for consolation prizes even after the primary prize has been awarded.¹

Cairns relates to a method for promoting a product through use of a contest or sweepstakes. The promotional contest is based on a code or password obtained by a purchaser of the product. Apparently, the code is present on a card included with the product. To enter the contest, the purchaser accesses a web site to input the code along with personal information. A promoter of the contest “receives this information and determines whether the purchaser is among one or more winners of the sweepstakes from the code or other unique information.” Notably, Cairns teaches that the “purchaser is notified while connected to the world wide web site of his or her winning status,” and then the “winning status of the purchaser is confirmed by instructing the limited number of winning purchasers to forward their original cards to the promoter for verification.” (See, for example, column 2, lines 5-24.)

Clearly, Cairns teaches that the winning code is not verified or confirmed until **after** the purchaser has already been notified that the inputted code is a winning code, and **after** the purchaser sends the card with the winning code to the promoter for verification. As stated in Cairns:

The purchasers 24 who are identified as winning a prize or other award are requested by the server computer 38 to send the original card 12 with the winning

¹ It is to be understood that the examples discussed herein are presented for illustrative purposes, and such examples are not to be construed to impart limitations on the scope of the claims.

code to the company selling the product or the promoter running the sweepstakes, as shown in FIG. 3 at 82. The card 12 sent by mail, for example, by the purchaser 24 is received by the promoter at step 80 in FIG. 1. The **winning status of the card 12 can be verified**, as shown at 90. . . .

Fewer personnel are required by the promoter to receive the returned cards 12, since only the winning cards (and perhaps a few others) will be sent in. . . .

(Column 4, line 66, to column 5, line 11; emphasis added.) Thus, Applicants understand that it is an important feature of Cairns to **first** notify the purchaser of the winning status of the inputted code, before verification, and **afterwards** to request the purchaser to return the card with the winning code to the promoter for verification of the winning status of the card. As such, Cairns is understood to teach away from the notable feature of Claim 1 of the present application, in which a contest code inputted by a consumer is validated before a determination is made as to whether the contest code is a winning code, as discussed above. The method of Claim 1 therefore prevents a situation in which a purchaser, who has been notified that he has a winning code, provides the same winning code to others so that the others can fraudulently obtain benefits from using that winning code.

Cairns mentions that a “purchaser may be admitted to a secure area of the internet site upon inputting a valid code or password” (column 4, lines 44-46), and that “activity may be restricted to those purchasers who have been admitted to the secure area of the site by inputting a valid code 16 or may be open to all visitors” (column 4, lines 60-63). The secure internet site is where the purchaser may receive “discounts and/or special promotions for the product” (column 4, lines 54-65). Clearly, the term “valid code” as used in Cairns merely refers to codes that have been identified (i.e., notified to the purchaser) as having a winning status. As mentioned above, however, the purchaser can give the same code to others, thus enabling the others from fraudulently obtaining the benefits of the secure internet site. Thus, unlike Claim 1, Cairns does

not provide a way to prevent such fraud re-use of a winning code. Applicants note that Cairns provides no suggestion of any other meaning for the term “valid code.”

The term “valid code” as used in Cairns has a different meaning than the term “valid contest code” as used in Claim 1. As mentioned above, Cairns uses the term “valid code” to refer to a code that already has been found to have a winning status; by contrast, in Claim 1, the term “valid contest code” refers to a code that has been determined to be an active code in the promotional contest, but not necessarily a winning code. In other words, according to Cairns, only codes that are found to have a winning status are considered valid, whereas in Claim 1 of the present application a valid code is an active code in the promotional contest but may be a losing code. For example, Claim 1 could prevent re-use of a code by removing the “active” status of a code once it has been used or inputted by a purchaser. Thus, a purchaser would not be able to share a winning code with others so that the others would fraudulently reap the benefits of the same winning code. Cairns does not teach or suggest a system that provides such a benefit.

The Office Action, on page 3, appears to point to the abstract, Figs. 1-3, and column 1, line 65, to column 2, line 54, of Cairns as disclosing the validation feature of Claim 1. However, nothing has been found in Cairns that is believed to teach or suggest a method of administering a promotional contest that includes “electronically validating the contest code to determine whether the contest code is an active code in the promotional contest,” and “if the contest code is found to be valid, then determining whether the valid contest code inputted by the consumer matches the winning code thus entitling the consumer to receive a prize associated with the winning code,” as recited in Claim 1. Accordingly, Applicants submit that Claim 1 is

patentable over the cited art, and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a).

Independent Claims 8, 13, and 18 include a feature similar to that discussed above, in which a contest code inputted by a consumer is validated to determine whether the contest code is an active code in the promotional contest before a determination is made as to whether the contest code is a winning code. Therefore, those claims also are believed to be patentable for at least the reasons discussed above. The other rejected claims in this application depend from one or another of the independent Claims 1, 8, 13, and 18 and therefore are submitted to be patentable for at least the same reasons. Because each dependent claim also is deemed to define an additional aspect of the invention, individual consideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable consideration and an early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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